



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

THE NPS NEEDS TO IMPROVE MANAGEMENT OF COMMERCIAL CELLULAR FACILITIES' RIGHT-OF-WAY PERMITS AND REVENUES



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

JUL 19 2019

To: P. Daniel Smith
Deputy Director, Exercising the Authority of the Director
National Park Service

From: Gail S. Ennis 
Acting Inspector General

Subject: Final Evaluation Report – The NPS Needs To Improve Management of
Commercial Cellular Facilities’ Right-of-Way Permits and Revenues
Report No. 2018-WR-011

This memorandum transmits the results of our evaluation of the National Park Service’s (NPS’) management of commercial cellular facilities. We found that the NPS needs to improve its management of revenues collected and costs recovered for commercial cellular facilities, along with its management of the permitting program and its implementation of governing NPS policy.

We made six recommendations to help the NPS improve its management of these commercial cellular facilities. In its response to the draft report, the NPS concurred with all six recommendations. We consider the recommendations resolved but not implemented and are forwarding those to the Office of Policy, Management and Budget to track implementation.

If you have any questions about this report, please contact me at 202-208-5745.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

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Results in Brief

We evaluated the National Park Service's (NPS') right-of-way (ROW) permitting process and how revenues for commercial cellular facilities are collected and accounted for. We found that the NPS could improve its management of the permitting process, collect additional revenue, recover costs, and increase compliance with NPS policy by:

- Preparing and issuing accurate and timely bills for collection to ROW permit holders
- Documenting employee time and costs associated with ROW permits for cost recovery
- Completing and updating its cellular facilities inventory, including evaluating the appropriateness of currently unpermitted facilities
- Developing an action plan to ensure compliance with NPS policy

We found the NPS was not properly collecting the appropriate land use fees and recovering ROW permit costs. As a result, the NPS is potentially either undercharging or overcharging for land use fees for commercial cellular facilities, and the U.S. Treasury may not be receiving the correct amount of revenues that should be deposited. In addition, we found instances where the NPS could not provide support for the moneys retained at the park level for cost recovery, possibly resulting in parks augmenting their appropriations if they overcharged for cost recovery. Thus, we could not determine the financial impact to the U.S. Treasury.

In addition, we found that the NPS inventory of commercial cellular facility permits was incomplete. Of the 133 inventoried commercial cellular facilities, 42 required research to determine whether permits needed to be issued, and 26 expired permits required research to determine whether renewals were needed. The NPS also could not provide evidence that the required National Environmental Policy Act determination was performed consistently for commercial ROW permits, and NPS regional director approval of commercial ROW permits was not always obtained when required. If regional approval is not obtained for new commercial ROW permits, the inventory of cellular facility permits may not be current and complete. Without a complete inventory, the NPS' Washington Support Office cannot be sure that parks are in compliance with NPS policy and that Federal land is protected.

We provide six recommendations to help the NPS improve its commercial ROW program. After reviewing a draft version of our report, the NPS concurred with all six of our recommendations.

Introduction

Objective

The objective of our evaluation was to determine:

- Whether parks receive fair market value for commercial cellular facilities, and whether revenues are properly collected and accounted for by the National Park Service (NPS)
- Whether parks review and make determinations about commercial cellular facilities on NPS land in accordance with applicable laws, regulations, and policies

Appendix 1 provides our scope and methodology. Appendix 2 contains a summary of prior audit coverage.

Background

The NPS provides cellular service to park visitors and NPS employees via commercial cellular facilities that are sometimes located on NPS land (see Figure 1 for examples). Since 1996, these facilities are authorized by right-of-way (ROW) permits issued by the NPS. Companies own the cellular equipment, and the ROW permit allows them to operate it.



Figure 1. Examples of commercial cellular facilities on NPS land. Source: OIG.

The *NPS Reference Manual 53: Special Park Uses (RM-53)* sets forth the requirements for permitting cellular facilities on NPS land. The ROW permitting process includes a National Environmental Policy Act (NEPA) determination, which requires a public comment period to give the public an opportunity to provide input on proposed NPS actions. These steps help ensure

the protection of Federal land and the transparency of Federal actions having potential environmental impact.

RM-53 also requires the collection of land use fees and cost recovery for ROW permits. Land use fees must be deposited into the U.S. Treasury, whereas cost recovery can be retained at the park level. Cost recovery is a charge to reimburse the costs incurred by the NPS to manage or support a ROW permit. The NPS provided information that NPS-wide, more than \$1 million in estimated land use fees for commercial cellular facilities was collected in fiscal year (FY) 2017; we were unable to determine, however, the amount of cost recovery retained by the parks.

In 2013, the NPS' Washington Support Office (WASO) issued a data call to all park units to develop an inventory of all cellular facility permits on NPS land. This list included both commercial cellular sites and Government-owned cellular sites (our focus was on commercial cellular sites). During fieldwork we asked for and WASO provided an inventory of commercial cellular facility permits on NPS land. For the purpose of our review, we considered commercial cellular facilities to include all commercial cellular equipment identified in the ROW permit.

Findings

We found that the NPS did not consistently receive fair market value for commercial cellular facilities and needed to improve its collection and accounting of ROW revenues. Specifically, we found that the NPS did not always collect the correct revenues and did not ensure the correct amounts were deposited into the U.S. Treasury.

We also found that the NPS needed to improve its management of the commercial ROW program to better comply with applicable laws, regulations, and policies, primarily RM-53 and Federal standards for internal controls. Specifically, we could not determine and the NPS did not know for certain how many commercial cellular facilities are on NPS land. Furthermore, in some instances, we found no evidence that the required NEPA determination was conducted as part of the ROW permitting process, and we found that the required approval from the NPS regional director was not obtained for new commercial ROW permits. As a result, parks are not in compliance with RM-53 and Federal land may not be protected from environmental impacts.

See Appendix 3 for a summary of the deficiencies found by park unit.

ROW Revenue Management Needs Improvement

Revenues for Commercial ROW Permits Were Not Properly Collected

We could not verify that the NPS collected the correct land use fees and cost recovery for commercial ROW permits. RM-53 requires that land use fees “reflect the fair market value of the benefits provided” and emphasizes the importance of collecting appropriate charges to ensure that ROW permit holders pay all costs incurred by the NPS to administer the permits. Further, RM-53 stresses that charging fair market value for land use fees is the most equitable method of ensuring all users of park land are charged equally for similar uses.¹ One method that can be used to determine fair market value is to conduct an appraisal. The NPS has used other methods in the past to determine fair market value, but currently uses appraisals.

The amount of fees collected by the NPS was incorrect because billing practices for commercial ROW permits were applied inconsistently. In addition, we found that some parks expected the permit holders to send the correct land use fees in a timely manner without the NPS generating a bill for collection. The NPS also had unpermitted commercial cellular facilities operating on NPS land (for which no revenues were collected). In addition, we found cellular facilities that operated under other special use permits instead of ROW permits. As a result, in some parks the NPS could be undercharging or in some parks it could be overcharging for land use fees for commercial cellular facilities. This potentially results in the U.S. Treasury not receiving the proper amount of revenues.

As one example, Yosemite National Park (YOSE) had commercial cellular facilities operating under special use permits that were not converted to ROW permits when the special use permits expired. We estimate that YOSE did not collect approximately \$477,000 in land use fees because

¹ In a March 2016 memo, the NPS stated that the U.S. Government Accountability Office determined that costs should be subtracted from land use fees. Thus, fair market value would inherently include land use fees and cost recovery.

it did not convert special use permits to ROW permits in a timely manner. After the conversion, YOSE also did not send bills for collection and relied on ROW permit holders to send the correct land use fees owed to the park. Because accurate bills for collection were not issued, some commercial cellular facilities that converted to ROW permits paid fees for both a special use permit and a ROW permit in 2017, when only one type of fee should have been collected for each site.

At Everglades National Park (EVER) and Santa Monica Mountains National Recreation Area (SAMO), we found instances of commercial cellular facilities operating without an NPS ROW permit. At EVER, ROW permits were not issued for individual antennas attached to already permitted cellular towers. As a result, EVER is not collecting land use fees, which translates to lost revenues for the U.S. Treasury. We were unable to determine the amount lost because EVER could not provide us with the appraisal that would have been part of the permitting process. An appraisal would need to be performed as part of issuing a ROW permit for the antennas.



Figure 2. A commercial cellular antenna operating under a public road right of way at Santa Monica Mountains National Recreation Area. Source: OIG.

At SAMO, we could not determine the authority for all 17 unpermitted commercial cellular facilities on WASO's inventory. In its July 18, 2018 response to our Notice of Potential Findings and Recommendations (NPFR) about this issue, SAMO stated that these facilities operate under a public road ROW and that RM-53 does not provide guidance regarding commercial cellular facilities within a public road ROW (see Figure 2 for one such facility). SAMO also cited not having adequate staff to determine the underlying regulation or legislative authority that authorizes the unpermitted commercial cellular facilities to operate in the park. Therefore, we still do not know whether these commercial cellular facilities require a ROW permit and whether the park should be collecting land use fees.

Wolf Trap National Park for the Performing Arts (WOTR) could not provide an appraisal or support documentation for its determination of land use fees.² Commercial cellular facilities were originally approved and managed under lease agreements by WTF Holdings, LLC, and the Wolf Trap Foundation (a

² We found other issues with lease agreements at WOTR that are covered in a separate OIG report; see Appendixes 1 and 2 for more information.

nonprofit organization). These leases began conversion to ROW permits in 2014, but WOTR could not provide an appraisal to determine fair market value for land use fees for these permits. Thus, we could not determine whether WOTR is charging the appropriate land use fees.

Revenues for Commercial ROW Permits Were Not Properly Accounted For

The NPS did not properly account for commercial ROW permit revenues. Specifically, we found instances where the NPS could not provide support for the moneys that were retained at the park level for cost recovery. This was further complicated because ROW permit charges for commercial cellular facilities were often comingled in the same account as other special use permit charges.

RM-53 requires that charges arising from the use of NPS land and facilities be deposited in the U.S. Treasury and that costs recovered for administering ROW permits be retained at the park. It also requires that cost recovery be based on actual amounts incurred. If parks retain funds that rightfully should be deposited into the U.S. Treasury, they might be improperly augmenting their annual appropriations. Conversely, if parks retain too little, they could end up paying for cost recovery out of their appropriated funds.

Several of the parks we visited retained moneys for cost recovery without any support documentation, and so we could not determine whether cost recovery retained by the parks was justified. For example, at Grand Teton National Park (GRTE) and YOSE, land use fees and cost recovery were deposited into the same account as other special use permit revenues. Both GRTE and YOSE did not have support documentation for the cost recovery retained at the parks for commercial ROW permits. We therefore were unable to determine the amount of labor and any related costs that NPS staff spent administering ROW permits for commercial cellular facilities versus the amount of labor and related costs spent on other special use permits. In other words, we could not conclude that the appropriate amount for cost recovery was retained at these parks because the parks could not provide support for the amounts retained. If the parks overcharged for cost recovery, the effect could be a reduction in the amounts that should have been deposited into the U.S. Treasury.

Recommendations

We recommend that the NPS:

1. Prepare and issue bills for collection to all ROW permit holders for the collection of land use fees to ensure that accurate and timely payments are received
2. Determine the appropriateness of unpermitted commercial cellular facilities on NPS land; if any are determined to be inappropriate, take the necessary steps to either issue ROW permits or remove the facilities
3. Document all employee labor and related costs associated with individual ROW permits to ensure the correct cost recovery amounts are retained at the parks

Commercial ROW Program Management and RM-53 Implementation Need Improvement

Inventory of Commercial Cellular Facility Permits on NPS Land Was Inaccurate and Incomplete

We found that WASO's inventory of commercial cellular facility permits was inaccurate and incomplete. The inventory listed 133 commercial cellular facilities on NPS land, but WASO told us it believed the list was incomplete and could not guess at the accuracy of the regional input. During our review, we noted two park units, SAMO and Acadia National Park, that each had one commercial cellular facility that was not included on WASO's inventory. In addition, WASO's inventory included 42 cellular facilities that had not been permitted because the NPS had not conducted the work necessary to confirm whether ROWs needed to be issued, and it included 26 expired permits that require research to determine whether renewals are needed.

We did not find and were not provided any policy for keeping an accurate and complete inventory of commercial cellular facility permits. Furthermore, WASO told us there is no standard for how quickly permits should be entered into the inventory. Federal internal control standards, however, state that management should use quality information to achieve an agency's objectives. The absence of a policy or standard about how and when permits should be entered into the inventory has resulted in a list that is not updated regularly and is incomplete.

Without an accurate inventory, the NPS has no assurance that all commercial cellular facilities are accounted for and managed in accordance with RM-53, which requires a NEPA determination as part of the ROW permitting process. As such, WASO cannot provide oversight to be sure that the correct revenues are being collected and deposited into the U.S. Treasury and that Federal land is protected through the NEPA requirements.

NEPA Determinations Prior to Installation of Commercial Cellular Facilities Were Not Always Documented

RM-53 requires parks to complete a NEPA determination before issuing a ROW permit unless a "categorical exclusion" (to exempt the permit action from environmental analysis) applies. At two parks, GRTE and WOTR, we found that the NPS could not provide evidence that a NEPA determination was conducted or a categorical exclusion applied before the installation of commercial cellular facilities.

Furthermore, the NPS did not have a policy requiring annual or periodic reviews of the commercial ROW program to ensure that RM-53 requirements were applied correctly. Federal internal control standards require agencies to establish internal controls; one internal control the NPS could use is an annual or periodic review. Such reviews could have prevented or brought the issue of missing NEPA determinations or inadequate documentation to the attention of program officials.

Approval for Commercial ROW Permits Was Inconsistent

RM-53 requires the approval of the park superintendent for ROW permit renewals but requires the regional director's approval for new ROW permits. We found that two parks, WOTR and EVER, could not provide support that they obtained regional director approval for new commercial ROW permits, as required.

At WOTR, lease agreements for commercial cellular facilities were converted to ROW permits, but the new ROW permits were signed only by the park superintendent. At EVER, one ROW permit renewal was approved by the park superintendent, but the park could not provide support that the initial ROW permit had regional director approval.

Annual or periodic reviews of commercial ROW permits could have also prevented or brought the issue of absent regional approvals to the attention of program officials. Only the regional offices are able to update the commercial cellular facility permit inventory. Thus, if regional approval is not obtained for new commercial ROW permits, the inventory of commercial cellular facility permits may not get updated. A complete and accurate inventory is necessary to inform NPS management of the number and location of commercial cellular facilities in the parks so that the NPS can plan for the management of the commercial ROW program and ensure park compliance with RM-53.

Recommendations

We recommend that the NPS:

4. Develop policy to ensure that the commercial cellular facility inventory data are current, complete, accurate, and updated on a timely basis
5. Complete the inventory of cellular facilities in parks
6. Develop an action plan to ensure compliance with RM-53; the plan should include the NPS conducting annual or periodic program or internal control reviews of the regional office and park ROW operations to ensure compliance with applicable laws, regulations, and policies

Conclusion and Recommendations

Conclusion

The NPS has the opportunity to improve how it collects and accounts for revenue from commercial cellular facilities and its compliance with applicable laws, regulations, and policies, primarily RM-53 and Federal standards for internal controls. Additional land use fees and cost recovery could be generated for the U.S. Treasury and the NPS, respectively, by improving revenue management. Furthermore, a current inventory is critical to help WASO provide oversight to ensure that the NPS is complying with all environmental protection requirements to conserve and protect Federal land under its care for the enjoyment of future generations.

During our evaluation, we issued eight NPFRs—one to WASO and seven to individual park units. The NPS' responses to the NPFRs indicated varying levels of concurrence with our recommendations, and the NPS has started implementing some of the recommendations.

Recommendations Summary

The NPS responded to our draft report on May 22, 2019, concurring with all six recommendations (see Appendix 4 for the NPS' full response). Based on the response, we consider all six recommendations resolved but not implemented. We will refer the recommendations to the Assistant Secretary for Policy, Management and Budget to track implementation (see Appendix 5 for the status of recommendations).

We recommend that the NPS:

1. Prepare and issue bills for collection to all ROW permit holders for the collection of land use fees to ensure that accurate and timely payments are received

NPS response: The NPS concurred with our recommendation. The NPS stated that it will work with its budget office to develop and issue policy for collecting land use fees from ROW permit holders.

OIG reply: Based on the NPS' response, we consider Recommendation 1 resolved but not implemented.

2. Determine the appropriateness of unpermitted commercial cellular facilities on NPS land; if any are determined to be inappropriate, take the necessary steps to either issue ROW permits or remove the facilities

NPS response: The NPS concurred with our recommendation. The NPS stated that it has an ongoing effort to verify and update the information in its inventory of commercial cellular facility permits. The NPS is also hiring interns, training staff, and reaching out to commercial cellular companies to verify existing inventory data. In addition, training will be held twice a year on ROW policies and processes, as well as applicable laws and regulations, to help ensure that non-NPS infrastructure is properly permitted.

OIG reply: Based on the NPS' response, we consider Recommendation 2 resolved but not implemented.

3. Document all employee labor and related costs associated with individual ROW permits to ensure the correct cost recovery amounts are retained at the parks

NPS response: The NPS concurred with our recommendation. The NPS stated that WASO staff regularly advise regional and park staff on individual ROW permit cost recovery questions as part of efforts to ensure proper cost recovery. The NPS also stated that several park units have started implementing this recommendation and that the NPS has started developing more detailed guidance to encourage parks to track and bill for their time and costs in administering ROW permits.

OIG reply: Based on the NPS' response, we consider Recommendation 3 resolved but not implemented.

4. Develop policy to ensure that the commercial cellular facility inventory data are current, complete, accurate, and updated on a timely basis

NPS response: The NPS concurred with our recommendation and has already started developing this policy. The NPS noted that the recent release of the current version of the NPS permit tracking system, called Use Manager, will improve permit data collection, progress tracking, and status reporting. The user guide for Use Manager will provide the policy needed to ensure that inventory data for commercial cellular facilities are current, complete, accurate, and updated on a timely basis.

OIG reply: Based on the NPS' response, we consider Recommendation 4 resolved but not implemented.

5. Complete the inventory of cellular facilities in parks

NPS response: The NPS concurred with our recommendation. The NPS stated that it has already started implementing this recommendation in its release of the latest version of Use Manager, which allows for the appropriate NPS staff to input inventory and permit information and for anyone in the NPS to view a report of the data.

OIG reply: Based on the NPS' response, we consider Recommendation 5 resolved but not implemented.

6. Develop an action plan to ensure compliance with RM-53; the plan should include the NPS conducting annual or periodic program or internal control reviews of the regional office and park ROW operations to ensure compliance with applicable laws, regulations, and policies

NPS response: The NPS concurred with our recommendation. The NPS stated that it recently hired additional staff to assist with the commercial ROW program, and one of

the central tasks for the new staff is development and implementation of an action plan for program reviews.

OIG reply: Based on the NPS' response, we consider Recommendation 6 resolved but not implemented.

Appendix I: Scope and Methodology

Scope

We evaluated the National Park Service's (NPS') right-of-way (ROW) permitting process and revenue collection and management for commercial cellular facilities to determine whether the process, as a whole, was conducted according to applicable laws, regulations, and policies and with sufficient NPS oversight. We focused our review on ROW permits and renewals for commercial cellular facilities from fiscal year 2013 to fiscal year 2017.

We initiated the evaluation after the Public Employees for Environmental Responsibility requested that we review the NPS' revenue collection and management, compliance with applicable laws and policies, program oversight, and public comment regarding commercial cellular facilities on NPS land. Regarding our review of public comment, we only verified through review of documentation whether the NPS responded to public comments on National Environmental Policy Act (NEPA) analyses performed. We did not evaluate the sufficiency, depth, completeness, or accuracy of the NPS' response to public comment.

We found issues with lease agreements at the Wolf Trap National Park for the Performing Arts that were outside the scope of this report. These other issues are reported on in an OIG special report titled *Financial, Ethical, and Exclusive Use Concerns About the NPS' Agreement With the Wolf Trap Foundation for the Performing Arts*, issued in September 2018 (Report No. 2017-WR-037-A).

Methodology

We conducted our evaluation in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

The NPS provided us with commercial cellular facility permit and financial data. We did not verify the accuracy or completeness of the data provided to us.

We visited or contacted the NPS' Washington Support Office, five regional offices, and nine park units. The park units visited were selected from the Washington Support Office's inventory of commercial cellular facility permits that was provided to us. We based our site selections, in part, on the number of commercial cellular facilities at the park unit, as well as the proximity of the park unit to other park units and its cognizant regional office. We planned our site visits so that we would cover a majority of the seven NPS regional offices and visit at least one park unit from each regional office contacted.

We conducted our evaluation from January 2018 to July 2018. To accomplish the objective, we:

- Reviewed applicable laws, regulations, and policies

- Reviewed the U.S. Government Accountability Office’s *Standards for Internal Control in the Federal Government* (the “Greenbook”)
- Reviewed prior audit reports
- Obtained an inventory of the NPS’ commercial cellular facility permits
- Conducted a limited review of financial data for commercial cellular facility permits to determine whether the correct funds were charged and collected
- Judgmentally selected park units and regional offices to conduct site visits
- Reviewed all ROW permits at sites visited to determine compliance with *NPS Reference Manual 53: Special Park Uses* (RM-53) and NEPA requirements included in RM-53
- Interviewed Public Employees for Environmental Responsibility staff and NPS Washington Support Office, regional, and park officials
- Issued Notices of Potential Findings and Recommendations to the Washington Support Office, Grand Teton National Park, Yellowstone National Park, Wolf Trap National Park for the Performing Arts, Death Valley National Park, Santa Monica Mountains National Recreation Area, Yosemite National Park, and Everglades National Park

We conducted site visits or teleconferences at the following NPS sites:

- Washington Support Office in Denver, CO
- Intermountain Regional Office in Denver, CO
 - Grand Teton National Park, WY
 - Yellowstone National Park, WY
- National Capital Regional Office in Washington, DC (teleconference only)
 - Wolf Trap National Park for the Performing Arts, VA
- Northeast Regional Office in Philadelphia, PA
 - Gateway National Recreation Area, NY
- Pacific West Regional Office in San Francisco, CA
 - Death Valley National Park, CA
 - Golden Gate National Recreation Area, CA
 - Santa Monica Mountains National Recreation Area, CA
 - Yosemite National Park, CA
- Southeast Regional Office in Atlanta, GA (teleconference only)
 - Everglades National Park, FL

Appendix 2: Prior Audit Coverage

U.S. Department of the Interior (DOI), Office of Inspector General (OIG)

Financial, Ethical, and Exclusive Use Concerns About the NPS' Agreement With the Wolf Trap Foundation for the Performing Arts (Report No. 2017-WR-037-A), issued September 2018

The Wolf Trap Foundation did not use all expenditures from cellular leases—for which it has collected revenues totaling \$2 million since 1995—for mutually beneficial projects. Specifically, \$388,000 of the \$1.6 million collected was spent on improvements to the Encore Circle Lounge, which solely benefited the Wolf Trap Foundation and its operation. In addition, the OIG questioned the decision and the legal authority to forgive the entire \$1.6 million because it was revenue generated on park property, making it Federal revenue. The OIG recommended that the National Park Service (NPS) obtain a legal opinion to determine whether the NPS had authority to forgive the \$1.6 million in Federal revenue.

Management of Rights-of-Way in the U.S. Department of the Interior (Report No. C-IN-MOA-0013-2010), issued September 2012

The DOI and its bureaus had the opportunity to collect additional rents of almost \$100 million or more annually for the tens of thousands of rights-of-way (ROWs) that cross public and American Indian lands. The potential revenue was not collected because rents were set below market value, rent discounts were not justified, and unauthorized uses of ROWs were not identified and corrected. Federal laws and regulations allowed the DOI to assess market value for ROW rents, but the DOI had not established guidance to fully implement this authority. The OIG recommended that the NPS continue implementing a ROW program that included completing a ROW inventory and assigning qualified realty staff.

Private Use of Public Lands, National Park Service and Bureau of Land Management (Report No. W-IN-MOA-0008-2005), issued April 2007

The NPS allowed private parties or exclusive clubs to monopolize desirable locations near urban areas for decades and improperly retained millions of dollars that should have been remitted to the U.S. Treasury. Also, both the NPS and the Bureau of Land Management allowed permits to be renewed without ensuring their compliance with the National Environmental Policy Act (NEPA). The OIG recommended that the NPS determine the extent to which special use permits limit long-term access to public lands, direct NPS officials not to renew those special use permits that limit long term public access to public lands, open facilities having exclusive use to the general public and determine the appropriate legal instrument, such as concessions, leases, and ROWs, under which to operate, seek advice from the DOI Solicitor's Office for the disposition of an inappropriate augmentation of \$2.6 million of NPS' appropriation, and develop a process to ensure that park units perform appropriate NEPA reviews before issuing permits and that they document the results of the review.

U.S. Government Accountability Office (GAO)

National Park Service: Revenues Could Increase by Charging Allowed Fees for Some Special Uses Permits (Report No. GAO-05-410), issued May 2005

NPS park units did not consistently apply guidance for permitting special events and for commercial filming and still photography. They often did not identify and recover costs associated with permitting such activities, thereby decreasing financial resources available to the parks. The GAO recommended that the park units consistently apply cost recovery guidance.

Appendix 3: Deficiencies Found at Park Units

Park Unit*	Inaccurate Inventory†	Undocumented NEPA Determination	Unsupported Cost Recovery	Improper Billing and Collection	Undocumented Regional Approval
Death Valley National Park			X‡		
Everglades National Park	X			X	X
Santa Monica National Recreation Area	X				
Golden Gate National Recreational Area	X				
Grand Teton National Park		X	X		
Acadia National Park§	X				
Wolf Trap National Park for the Performing Arts		X		X	X
Yellowstone National Park			X**		
Yosemite National Park			X	X	

NEPA = National Environmental Policy Act

* Selected park units also included the Gateway National Recreation Area, but we found no deficiencies at that site to report.

† The park unit's commercial cellular facility permit inventory did not match the Washington Support Office's inventory.

‡ Death Valley National Park charged a flat fee for cost recovery.

§ We did not perform a site visit at Acadia National Park, but determined this information through a site visit to the Northeast Regional Office.

** Yellowstone National Park charged cost recovery fees based on a schedule after the initial right-of-way permit cost recovery was collected. Park officials stated that the park will document the analysis necessary to update its cost recovery collection for right-of-way permits.

Appendix 4: Response to Draft Report

The National Park Service's response to our draft response follows on page 18.



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, DC 20240

MAY 22 2019

To: Deputy Inspector General

From: Deputy Director
Exercising the Authority of the Director

Subject: National Park Service responses to: Office of Inspector General Draft Evaluation Report - The National Park Service Needs to Improve Management of Commercial Cellular Facilities' Rights-of-Way Permits and Revenues, Report No. 2018-WR-011

The National Park Service (NPS) has reviewed the Office of Inspector General (OIG) draft report entitled: Draft Evaluation Report - the NPS Needs to Improve Management of Communication Cellular Facilities' Rights-of-Way Permits and Revenues, Report No. 2018-WR-011. Thank you for the opportunity to respond to the referenced report. We agree with all of your recommendations and have already taken actions to implement them, as outlined below.

In all cases, implementation work is still ongoing. We take these matters seriously and are working to ensure that commercial cell facilities in national parks are managed correctly and in accordance with NPS policy and pertinent regulations.

Attached are the NPS's detailed responses to the specific recommendations, including steps NPS has taken or will be taking to address the concerns raised.

If you should have any questions or need additional information, contact Vera Washington, NPS Audit Liaison Officer, at (202) 354-1960, or Truda Stella, Realty Specialist & Rights-of-Way Program Manager, at (303) 987-6695.

Attachment

The National Park Service responses to: Office of Inspector General draft evaluation report entitled: The National Park Service Needs to Improve Management of Commercial Cellular Facilities' Rights-of-Way Permits and Revenues (Report No. 2018-WR-011)

Recommendation #1 - Prepare and issue bills for collection to all Rights-of-Way (ROW) permit holders for the collection of land use fees to ensure that accurate and timely payments are received.

NPS agrees. Several of the NPS units involved in the OIG audit have already begun implementing this recommendation through the use of pay.gov and/or bills of collection.

The Washington Land Resources Division (LRD) ROW program has consulted with a number of parks regarding their processes for fee collection, as well as developed contacts with similar programs at other bureaus and agencies (e.g., the U.S. Forest Service), to determine their methods and respective hurdles and benefits.

LRD is preparing to work with the NPS budget office in order to create and release nationwide guidance on this topic. ROW permitting policy currently found in Reference Manual (RM) 53 does not direct a collection method for land use fees. To address this, a new policy for collecting land use fees from ROW permit holders will be developed, approved, and disseminated by the target date listed below.

Target date of implementation
October 1, 2020

Responsible Official:
Shawn Bengé
NPS Associate Director, Park Planning,
Facilities, and Lands (PPFL)

Recommendation #2 - Determine the appropriateness of unpermitted commercial cellular facilities on NPS land: if any are determined to be inappropriate, take the necessary steps to either issue ROW permits or remove the facilities.

NPS agrees. As we discussed during the audit, this is an ongoing effort by the NPS Rights-of-Way program, involving parks, regional offices, and the national Washington Support Office (WASO) Rights-of-Way program.

In response to the 2012 OIG audit, "Management of Rights-of-Way in the U.S. Department of the Interior," the NPS created its first-ever nationwide ROW permit inventory. We have since begun efforts to ground truth and add to the data collected by the initial inventory.

In the meantime, LRD is bringing in interns and training regional Lands staff to assist in verification of the existing inventory data. In addition, NPS has reached out to a number of major telecommunications companies requesting data on the location of cell tower facilities.

Looking forward, NPS has also developed a new program to track the status of incoming ROW requests, denials, and issuance of permits. In conjunction with these efforts, a ROW coordinator position has been established in each NPS region under the auspices of the regional Lands

programs. All new ROW permit requests – including requests for permitting previously unauthorized telecommunications equipment – are now processed using a team approach that involves park staff working in conjunction with their regional ROW coordinator.

In addition, the LRD ROW program now holds twice-a-year trainings on ROW policies and processes, as well as applicable laws and regulations. These trainings are open to all park, regional, and WASO staff, and often include superintendents, law enforcement rangers, facilities staff, regional compliance staff, WASO permitting staff, and others. As a result of these new training efforts, park staff have become much more aware of the need to ensure that non-NPS infrastructure located within park boundaries is properly permitted. A number of current permitting actions involve equipment that was previously installed without the necessary authorization(s)—signaling that outreach efforts and ongoing guidance by the LRD ROW team are helping to not only address but reduce new reoccurrence of unpermitted facilities, as oftentimes the owner of an unpermitted piece of equipment may be the same entity now seeking a permit for placement of new telecommunications equipment.

More consistent and complete information is also being gathered as part of the updated permit application review process, including enforcement of requirements for site drawings showing precise locations, resulting in new infrastructure within park boundaries being thoroughly documented.

As unpermitted uses placed on park lands in the past are uncovered by park staff, the owners of such facilities are now routinely contacted and told that they must either submit an application for a ROW permit or remove from their facilities.

The final task of verifying the initial inventory data (i.e., whether third-party infrastructure is actually located in a given place on park lands and whether it is or is not permitted) is set to be complete by the target date below.

Target date of implementation
December 31, 2020

Responsible Official:
Bill Shaddox
Chief, Land Resources Division

Recommendation #3 - Document all employee labor and related costs associated with individual ROW permits to ensure the correct cost recovery amounts are retained at the parks.

NPS agrees. Several of the park units associated with the recent evaluation have already begun implementing this recommendation. In addition, LRD has begun working to develop more detailed nationwide guidance for this process.

The NPS collects cost recovery for ROW permits pursuant to 54 U.S.C. § 103104. This legal authority applies to all special park use permits issued by the NPS, including ROW permits, as well as permits for weddings, picnics, and other events. Director's Order #53 and RM 53 both include guidance for the application of 54 U.S.C. § 103104. This topic is covered in detail in the twice-yearly ROW trainings noted above. In addition, LRD ROW staff regularly advise park

and regional staff on individual ROW permit cost recovery questions as part of efforts to ensure that a better job is being done at recovering costs.

LRD ROW staff have also worked with Department of the Interior Office of the Solicitor to clarify cost recovery authority and encourage parks to track and bill for their time and costs in processing ROW permits. As awareness of changes in the NPS ROW program has grown, there is now a greater focus on recovering the costs of providing ROW permitting services. This includes, when appropriate, charging for time spent by the regional ROW coordinators in connection with a particular permit application. In addition, efforts are now being made to have applicants submit initial paperwork as early as possible, so that park staff and regional ROW coordinators can bill for the time spent on initial permit review. The initial permit review can be lengthy and involve considerable back and forth with applicants on inappropriate locations, survey standards, appraisal needs, environmental compliance, and other issues.

Target date of implementation
October 1, 2020

Responsible Official:
Shawn Bengé
Associate Director, PPFL
Louis Rowe
Acting Associate Director, Visitor and
Resource Protection (VRP)

Recommendation #4- Develop policy to ensure that the commercial cellular facility inventory data are current, complete, accurate, and updated on a timely basis.

NPS agrees. This policy is currently in development and will most likely go into effect as a user guide to the updated permit application, processing, and issuance inventory system. Key to the advancement of this policy is the development and recent release of the current version of the NPS permit (and other third-party uses) tracking system called Use Manager. This nationwide tracking system is maintained by LRD staff, and reports from the system are available to park, regional, and WASO staff. This innovative new system allows staff working on ROW permits to track their progress, report their status, and share information with other NPS staff. It allows NPS to track tower ownership, co-locators, types of equipment, authorizing documents, past expired permits, and has the capacity to include visual spatial data showing the actual length and width of each right-of-way and its relationship to the specific park location.

The User Guide for Use Manager is currently in development, and will provide the policy needed to ensure that commercial facility inventory data are current, complete, accurate, and updated on a timely basis.

Target date of implementation:
October 1, 2020

Responsible Official
Shawn Bengé
Associate Director, PPFL

Recommendation #5 - Complete the inventory of cellular facilities in parks.

NPS agrees. Implementation of this recommendation is already underway. At the time of the initial inventory in 2013, there was no computer database or other nationwide system to make the inventory data available and useful to NPS units, regions, and offices. Since 2013, NPS has developed and released two versions of a nationwide database used for tracking ROW activities within NPS units. The most recent version was released during the period of this evaluation, in October 2019. The system, called Use Manager, allows the appropriate Lands office to input inventory and permitting information for a park, and also allows anyone in the NPS to view a report of this data. The October 2019 update was essential to the successful validation and upkeep of inventory data.

Target date of implementation
November 30, 2020

Responsible Official:
Bill Shaddox
Chief, Land Resources Division

Recommendation #6 - Develop an action plan to ensure compliance with RM 53; the plan should include the NPS conducting annual or periodic program or internal control reviews of the regional offices and park ROW operations to ensure compliance with applicable laws, regulations, and policies.

NPS agrees. Currently, NPS has no policy or requirement for annual or periodic program reviews of the ROW program. The 2012 OIG audit recommended transfer of ROW permitting from SPU to Lands. Since the time Lands took over responsibility for ROW permitting, NPS efforts have been focused on:

- the initial inventory;
- training park and regional staff in relevant laws, regulations, policies, and practices;
- creating new resources for NPS and applicants (including Use Manager, a revised ROW permit template document, updated guidance material, new mapping/surveying standards, guidance on cost recovery, and a public-facing NPS ROW website); and
- reaching out to other NPS directorates (such as law enforcement, the NPS Radio program, and the SPU staff) in order to educate critical staff on the necessary steps and requirements for locating third-party infrastructure on NPS land.

LRD recently hired additional staff to assist with the ROW program, and one of the central tasks for this staff is development and implementation of an action plan for program reviews. As part of this effort, NPS has been reaching out to colleagues in other bureaus and agencies, such as the U.S. Fish and Wildlife Service and Bureau of Reclamation, in order to compare best practices and build a workable action plan.

Target date of implementation
December 31, 2020

Responsible Official:
Shawn Bengé
Associate Director, PPFL

Appendix 5: Status of Recommendations

Recommendations	Status	Action Required
1 – 6	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget for implementation tracking.

